

McNamara Declaration

Exhibit 26

part 2

recovery for these libraries was achieved by voter-approved tax measures. Other libraries have continued to suffer from reduced funding which negatively impacted their services.

67. Aside from funding challenges, the explosion of digital media has been trying for libraries. Given budget constraints, the movement to provision of digital materials and the equipment to enable access to those materials has completely re-ordered the service balance that libraries must provide and the resource allocation to address that balance. There are still patrons who want to read print books and don't see technology or digital materials as their primary method of engaging in the world. Libraries struggle to serve these patrons as well as patrons who have embraced digital media.

C. Components of Library Budgets

68. The Public Libraries Survey FY 2019 shows that staff salaries and benefits represent 67% of most library budgets, the largest type of expense of all of the categories.⁴³ In FY 2019, libraries spent \$4.51 per person on library collections materials or acquisitions representing 11% of their operating budgets.⁴⁴ Libraries strive to spend 15–20% of their budgets on library materials, yet most libraries are practically able to allocate 5–10% of their annual budget to collections. Because the acquisition budgets are so limited, regardless of budget flexibility due to source of funding, most material allocations are practically spent by the end of each fiscal year. With staffing and materials costs representing about 78% of most library budgets, the remaining 22% is stretched to cover equipment, broadband connectivity, facility maintenance, capital projects, and vehicles, as well as other ongoing expenses, i.e. insurance

⁴³ Michael Pelczar et al., Institute of Museum and Library Services, *Characteristics of Public Libraries in the United States: Results from the FY 2019 Public Libraries Survey* at 5 (Aug. 2021), <https://www.imls.gov/sites/default/files/2021-08/fy19-pls-results.pdf>.

⁴⁴ *Id.*

costs. Often, if the library is part of a city or county, they may be charged administrative costs for general operational services, i.e., human resources, financial management, and legal counsel.

D. Acquisition Budgets

69. With the limited funding for acquisitions, decisions for allocation of those resources must be made carefully. Here are categories of acquisition expenditures for libraries:

- “Standing orders”—annual orders for magazines (both print and digital) and reference materials;
- Fiction collections in digital and print formats—children, teen, adult;
- Non-fiction collections in digital and print formats—children, teen, adult;
- Non-print physical items—CD’s DVD’s, videos, streaming service subscriptions;
- Objects to loan—“library of things”, tools, games; and
- Replacements/binding of damaged/lost materials or periodicals.

70. Libraries struggle to balance the acquisition of print and digital materials. The division of the allocation of the budget between print and digital media is influenced by both the cost of materials and patron demand. The determination of effective format often depends on the specific user and type or book/material.

71. Most libraries strive to spend their entire annual materials allocation within the fiscal year in which funds were allocated. In fact, it is highly unusual for a library not to spend the entire allocation each year. A possible consequence of not spending that budget could be that the following year’s allocation is reduced by the unspent amount or more. As stated earlier, depending on how the library is organized and/or funded, they may be able to “carry over” unspent funds for the next fiscal year but in most cases the library may lose access to any funds not spent in the fiscal year allocated. The inability to retain unspent funds can result in

acquisition decisions that are focused on short-term rather than long-term priorities, for example, meeting immediate patron demand rather than planning for the permanent collection.

72. Most libraries now develop separate budgets for acquisitions of physical and digital materials. The IMLS Public Libraries Survey data demonstrates that the average percentage of acquisition budgets spent on print and digital materials has changed over the last eight years. Data is shown in the chart below⁴⁵:

Materials Expenditures Per Year

Fiscal Year	Print average percentage	Digital average percentage
FY 2019 ⁴⁶	52.4	31.1
FY 2016 ⁴⁷	56.1	25.3
FY 2011 ⁴⁸	65.4	14.3

73. The funds spent on digital materials have increased by 46% over the last eight years.

⁴⁵ Please note that these percentages do not add to 100 as there are smaller percentages of expenditures spent on serial subscriptions and other types of materials that are not reflected in the chart.

⁴⁶ Institute of Museum and Library Services, *Public Libraries Survey* “FY 2019: Table 11. Total collection expenditures of public libraries and percentage distribution of expenditures, by type of expenditure and state: Fiscal year 2019” (2021), <https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey>.

⁴⁷ Institute of Museum and Library Services, *Public Libraries Survey* “FY 2019: Table 26. Number of paid full-time-equivalent (FTE) staff in public libraries, by type of position; percentage of total FTE librarians and total FTE staff with ALA-MLS degrees; and number of public libraries with ALA-MLS librarians, by state: Fiscal year 2019” (2019), <https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey>

⁴⁸ Institute of Museum and Library Services, *Public Libraries Survey* “Table 25, Total collection expenditures of public libraries and percentage distribution of expenditures, by type of expenditure and state: Fiscal year 2011” https://www.imls.gov/sites/default/files/fy2011_pls_tables_20-30a.pdf.

74. Commensurate with this, the balance of materials in library collections has also been shifting. California State Library data demonstrates these shifts. Data is shown in the chart below:

Materials Per 1,000 Persons

Fiscal Year	Books	Ebooks
FY 2020 ⁴⁹	3,925	7,111
FY 2016 ⁵⁰	4,075	1,651
FY 2011 ⁵¹	4,188	154

75. The average number of ebooks per 1,000 persons has increased tremendously during the recent four-year period, with a huge jump of 77% from FY 2016 to FY 2020. Remember that there were very limited ebook collections prior to the mid-2000's, so these percentage increases will be very large. Print materials have decreased over the last nine years by about 6%. The size of long-standing print collections is much larger than ebook collections so the reduction in size will be at a much smaller percentage. Although specific data is difficult to find, the majority of all public library collection expenditures were focused on print materials until the most recent ten to twelve year period.

76. Again, California State Library data show the following:

⁴⁹ California State Library, *Collection 2019-20* (2022), https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

⁵⁰ *Id.* at *Collection 2015-16*.

⁵¹ *Id.* at *Collection 2010-11*.

Average Items Held by Libraries

Fiscal Year	Print Materials	Ebooks
FY 2020 ⁵²	294,224	191,899
FY 2016 ⁵³	327,302	63,121

77. Please note that print materials are the total number of books held on June 30 of the report year. Books are non-serial printed publications (including music and maps) that are bound in hard or soft covers, or in loose-leaf format. The average number of print materials and ebooks in library collections is changing, with the number of print materials decreasing and the number of ebooks increasing. As noted previously, California data is useful as California is a large state with similar average spending levels to other states.

VI. PRINT MATERIALS CIRCULATION/ACQUISITION

A. Circulation of Print Materials

78. California State Library data also show that the circulation of print materials has decreased. Data is shown in the chart below:

Circulation for all Physical Items Available at Libraries

Fiscal Year	Median Circulation	Average Circulation
FY 2020 – physical items ⁵⁴	252,824	716,955
FY 2016 – physical items ⁵⁵	398,777	1,057,035
FY 2011 – total ⁵⁶	449,598	1,322,931

⁵² California State Library Statistics Portal, *Summary Report, 2019-20*, (2022), <https://ca.countingopinions.com/pireports/report.php?bd779312f73ab509cdef26ddf21a92b6&live>.

⁵³ *Id.* at *Summary Report, 2015-16*.

⁵⁴ California State Library Statistics Portal, *Circulation 2019-20* (2022), https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=8d4d9320c8ce1ae36c764fd90dc05f83&live.

⁵⁵ *Id.* at *Circulation 2015-16*.

⁵⁶ *Id.* at *Circulation 2010-11*.

79. Although these numbers are not totally comparable to each other due to the California State Library using total circulation statistics in FY 2011 (which does not separate physical from electronic items), decreases in the circulation of print materials are clear. The median physical item circulation in FY 2020 decreased by 37% from the FY 2016 circulation; and the FY 2020 average physical item circulation decreased by 33% from the FY 2016 circulation.

80. IMLS recently published a detailed study⁵⁷ on the use and cost of public library materials, comparing data from public libraries throughout the U.S. collected in FY 2014 and FY 2018, prior to the pandemic. Key findings include the following:

- Although median circulation of physical materials per person decreased 16% nationally from FY 2014 to FY 2018, the median circulation of electronic materials per person increased *by nearly 150%*; and
- From FY 2014 to FY 2018, median per person spending on physical materials decreased by 6%, while median per person spending on electronic materials increased 31%.

81. The COVID-19 pandemic has had a tremendous impact on library circulation tendencies. A timely article in the *San Francisco Chronicle* on December 5, 2021 showed that total circulation for the San Francisco Public Library for FY 2021 fell by 23%. Note that all libraries were closed as of March 2020 and patrons were not welcomed back into many buildings until May 2021. Circulation of physical items dropped by 64% while circulation of digital items increased by 29%. The increase in digital circulation was not a new phenomenon—since 2017,

⁵⁷ Institute of Museum and Library Services, *The Use and Cost of Public Library Materials: Trends Before the COVID-19 Pandemic* (Jan. 2021), https://www.imls.gov/sites/default/files/2021-02/pls_fy18_research_brief.pdf.

digital circulation had been increasing by 25–31% each year. Although digital circulation increases may lessen to some extent when services are completely restored, the extensive use of digital materials in the “new normal”.⁵⁸

B. Collection Management

82. Library collections are constantly changing, with new materials added, older materials withdrawn or “weeded,” and in-demand titles replaced—a true ecosystem of content. The most common challenge of collection management is dealing with multiple copies of best-selling titles. Most libraries develop a “requests to copies” ratio that informs their purchasing decisions or patterns. Although these ratios may vary, a fairly common one is five to six holds (or persons waiting on a waitlist) for every print or ebook copy purchased or licensed.

83. For print materials, particularly best-sellers, libraries will usually purchase a significant number of copies in response to patron requests. The spike in demand for popular titles usually happens at the same time in all libraries so the option of borrowing best-sellers via interlibrary loan is not feasible. But libraries will not need the number of copies they initially purchased because, in my experience with libraries, the demand for the best sellers usually decreases within six months to one year after publication.

84. When the book’s popularity has diminished, the library will review the condition of all the copies, keep a small number of copies in the best condition, and weed or discard the remaining copies. For these reasons, libraries will rarely purchase replacement copies of a title. In fact, it is more common for the libraries to find ways to remove excess copies of once-best sellers.

⁵⁸ Nami Sumida, San Francisco Chronicle, *The Pandemic Transformed San Francisco’s Libraries. This Data Shows How* (Dec. 5, 2021), <https://www.sfchronicle.com/sf/article/How-the-pandemic-transformed-San-Francisco-s-16667414.php>

85. The number of circulations for copies of some of these best-sellers could go from ten circulations to fifty or sixty, given the longevity of the popularity of the title. Circulations depend on a number of factors: 1) A large number of copies were purchased in anticipation of heavy use and that use did not occur; 2) A copy could have been damaged after a few uses and was taken out of circulation; or 3) A title was extremely popular and remained in good condition for a number of uses. Limited copies of new or best-selling books in the best condition after their popularity has waned are kept due to space constraints of the library and/or to provide a supply of replacement copies if a library supports collections in other facilities.

86. When the copies are withdrawn from a library's circulation collection, one of the key goals of the library is to repurpose those copies. There are a number of processes that libraries are able to utilize to manage withdrawn materials, ranging from donating materials to library support groups for sales, donating materials to non-profit institutions or schools, sending materials to libraries in countries that have limited collections, and/or disposing of the materials in a sustainable manner.

87. In some cases, physical books are repaired or rebound—particularly if they are out of print or of special interest to the library. Most libraries do not have the capacity to make extensive repairs of material and find that purchasing replacements is a more efficient option.

88. If materials are rebound, the cost is borne by the library, with the library either having staff or a bindery bind the material and have use of the bound item as long as it lasts. The library does not have to pay the publisher to extend the life of a rebound book which the library owns, unlike the situation with ebooks where libraries must pay publishers for extended access to

ebooks. In any case, most libraries spend a very small percentage of their acquisitions budget on purchasing new replacement copies or binding existing copies of books.⁵⁹

VII. EBOOK ACQUISITION CHALLENGES

89. For ebooks, the collection management process is somewhat different than with print materials. These differences are not due to anything inherent about ebooks but result from the limitations imposed by publishers regarding the terms on which they are willing to make ebooks available to libraries. In contrast to print books, most publishers do not permit libraries to own ebooks. Publishers will only license access to most ebooks, including to libraries.

90. Publishers have developed a wide variety of licensing models including access metered based on amount of time, the number of loans, or combinations of factors; subscriptions to bundles of titles with varying use and time limitations; pay per use; simultaneous access; and other models as well. These models can be confusing and challenging for libraries to navigate.

91. Many libraries obtain their digital content through OverDrive, Inc., a major library ebook platform that often serves as the broker between publishers and libraries. Mr. Steve Potash, founder and CEO of OverDrive, Inc. noted in his deposition, “We advocate to all suppliers to consider and enable OverDrive to have all models. So our input is advocacy that libraries should have the options to look at a title or group of titles and have flexible opportunities to acquire permission for lending. So we strongly recommend all of the models, including simultaneous access, and more recently are getting more (suppliers) to enable that permission.”⁶⁰ When asked why Mr. Potash would support this approach, he responded,

⁵⁹ Libraries might purchase used books as replacement copies, but only in the case of a very rare or otherwise unavailable book.

⁶⁰ Potash Dep. Tr. 48:1–8, Jan. 31, 2022.

“Because we want to serve all communities and enable all readers of all ages, all genres, and libraries have a variety of budgets or other strategies. So we stand with libraries so they can have as many of the options for the library to evaluate the best way to build their collections.”⁶¹

92. In most licensing agreements, publishers allow libraries to have access to ebooks with specifically limited timeframes and/or publishers may impose additional charges as ebooks circulate. When licenses are about to expire, the library must determine if they want to retain access to the title and renew the licensing agreement or forego access to the title. The library also must determine if they want to retain access for a limited number of copies of the ebook and retain access for some copies and forego access for other copies.

93. Access decisions regarding ebook copies are a constant challenge for library staff. The condition of the material is not a defining factor for what to acquire; it is the amount of demand and cost of access that are key considerations in how to allocate the acquisition budget for ebooks.

94. Access to ebooks is not always in the hands of the library staff. Publishers may not provide library access to new digital content at its initial publishing date. A publisher can withdraw an ebook from its collection or change the terms of access. In regard to a publisher requiring a term limit for access to digital content, Mr. Potash noted in his deposition that “If we no longer have permission from the rights holder, we would be no longer offering that title in our offering . . .”⁶² Authors may also change their publishing houses which results in possible limitations/changes in access to that author’s materials previously published by another publisher.

⁶¹ *Id.* at 48:11–17.

⁶² *Id.* at 66:7–9.

95. Libraries may create digital copies of print books that they own. These digitization decisions may be made on the condition or content of the print material. The decisions could also be made on space or capacity available to the library. For instance, if a library had an extensive collection of local government documents that were important for that community but would not be digitized by any other institution and/or might take up valuable public space in their print format, that library may determine that digitizing those documents is the best method for preservation and long-term access. In any case, most libraries do not have the capacity to create digitized copies of materials and are required to outsource that process to other institutions with that capacity (such as Internet Archive) or other commercial companies.

A. Ebook Access Models

96. With the increased demand for ebooks, libraries have faced significant challenges in acquiring those materials. The prices and acquisition/subscription models for ebooks are far different from the world of print books. In acquiring print materials, libraries pay for physical items that they own in perpetuity. Often, libraries purchase print materials through an aggregator or book jobber, i.e. Baker and Taylor or the Ingram Content Group, where they receive a pre-negotiated discount for specific types of materials.

97. Ebook acquisitions are much more challenging than print book acquisition. The variety of access models for ebooks, i.e. access metered by time, number of checkouts, pay per use, etc., can be difficult for a library to manage. Also, the content and user audience can impact which model might work best for the specific ebook collection. Mr. Potash noted in his deposition that the one copy/one user model was in place “[a]pproximately (from) 2006 for a period of at least 10 years.”⁶³ The one copy/one user model, which is an access model that gives

⁶³ *Id.* at 52:18–19.

libraries permanent access to an ebook, was much simpler for libraries to manage than the variety of licensing models in place currently.⁶⁴

98. Libraries also use electronic platform aggregators to access ebooks. OverDrive, as noted previously, and Baker and Taylor's Axis 360 are platforms that many libraries use. Additional costs may be incurred by libraries to provide patron access to these platforms. Also the cost of access to an ebook for the library is normally three to five times higher than the retail cost of the ebook for an individual customer.⁶⁵ (This price mark-up does not exist for print books.)

99. When publishers introduced ebooks to the mainstream library marketplace, a common subscription model was one digital copy/one user at a time, with no time or use limitations. This model was similar to print library acquisitions although the libraries never owned a copy of the digital content. In contrast to the one user/one copy model, publishers adopted models where metered licenses were limited by time and/or number of uses.

100. Currently, publishers offer only limited options for one copy/one use (permanent access) licensing, and the pricing may be higher than pricing for other models. Some libraries are fortunate enough to have the resources to pay for permanent access to digital content. But, even if the library has the resources to purchase permanent access, many publishers are not offering a perpetual access model for that digital content at all. In any case, the digital access is still more expensive than the purchase of a print copy.

⁶⁴ "Every time a title is added, it has a metered access component. So it added overhead and workflow (for library staff) as a component of offering the material." *Id.* at 53:20–23.

⁶⁵ Denver Public Library, *Libraries and eBooks: An Introduction* (Oct. 30, 2019), <https://www.denverlibrary.org/blog/books-research/lauren/libraries-and-ebooks-introduction>.

101. Publishers claim that the higher price of a digital asset reflects the fact that there is not physical wear and tear on the ebook, in contrast to a print book that may become damaged or worn out from constant use and would be replaced at additional cost to the library and revenue to the publisher. Based on my knowledge and experience, that rationale does not align with library practice. Most libraries provide access to print and ebook versions of most popular titles. In the case of popular print books, where the library may purchase multiple copies of the same title, the library would keep copies in the best condition for long-term use after the popularity wanes and not necessarily buy any replacement copies. In the case of ebooks, libraries acquire multiple licenses or bundles of ebooks to meet patron demand and, as that demand wanes, they reduce the number of copies or access points they include in their inventory.

B. Challenges in Acquiring and Managing Ebook Collections

102. Acquiring and managing ebook collections is difficult, time-consuming, and expensive for library staff. As noted by Mr. Potash in response to a question regarding library ebook licenses with time limits, “it imposes more work for librarians . . . librarians have to -- instead of buying a book once for their collection in ebook form, have to engage in additional transactions upon expiration of the term” and “[m]aking decisions on which books to select, forecasting demand over the next 24-month period.”⁶⁶

103. Library staff must understand and determine if a publisher’s access model is useful, appropriate, and affordable for the library’s collection and patron use patterns. They have to constantly be mindful of when access to specific ebooks will end and determine if that access should be extended and/or how many copies of the ebook should be retained. In contrast to the cost of purchasing print materials, the cost of licensing for ebooks is a recurring expense rather

⁶⁶ Potash Dep. Tr. 61:1–11, Jan. 31, 2022.

than a one-time expense. Publishers' digital content access models make it very difficult to establish or maintain a permanent collection which is one of the primary goals of a library. Although the collection is always changing, the ability to obtain permanent ownership and/or permanent access to specific materials is critical.

104. For libraries with limited resources, the provision of a diverse ebook collection that meets patron demand can be very difficult. Libraries cannot totally abandon purchase of print materials to be able to support their ebook collections. Availability of mid-list or lesser-known authors or titles may be limited because most resources have to be allocated to costs for multiple copies of best-selling, popular ebook titles. The "pay per circulation always available" access model, i.e. Kanopy or Hoopla, can be extremely challenging. Because the library cannot predict the usage level of the materials, they cannot estimate with clear knowledge the cost of content provided through this access model. Some libraries have developed usage parameters for these pay per circulation collections, i.e. each card holder can have a certain number of downloads per week. These use limits may be required for budget predictability, but they are not positive experiences for the patron who does not understand the metering of access to digital material.

105. The ability to meet patron demand for digital content has stretched the capacity of materials budget in most libraries. Many small and large libraries rely, in part, on private support for digital content collections from their library friends groups, foundations, or other private funders. This private support has historically been used by libraries for programming or other supplementary services but is increasingly directed to basic licensing of library ebooks.

VIII. CDL'S IMPACT ON LIBRARY SPENDING

106. Because library acquisition budgets are limited and scarce, the existence of CDL does not result in less spending than what has been allocated for materials acquisitions. In fact,

even if you were to assume that CDL reduced the necessity of lending those titles via licensed ebooks, and even if books more than five years old all became easier to lend electronically through CDL for all libraries, libraries would not spend less money on acquisitions. They would reallocate their spending away from ebook licensing for those titles being accessed through CDL and would spend more on ebook licensing for newer titles or on print books.

107. As noted previously, library acquisitions budgets represent an average of 11% of most library budgets. For institutions dedicated to providing access to print and digital content, this is a rather sad state of affairs. The aspirational acquisition budget is 15–20% of the annual operating budget, almost twice what is spent on materials currently and a goal achieved by very few institutions. Library budgets are constrained primarily by the amount of funding that must be spent on staffing (67% on average) which represents a key service component of a successful library as well as the materials collections. Libraries also must make significant investments in provision of safe and secure facilities as well as up-to-date information technology infrastructure and equipment. Because of these required expenses, the materials budget, which is discretionary compared to other expenditures, is often used as the budget balancer on an annual basis—meaning that where reductions must be made to balance the budget, those reductions are often made to the materials budget.

108. Yet even in light of its discretionary nature, the materials allocation remains the heart of the library's expenditures. Librarians diligently spend their limited materials budgets as effectively as possible, regularly searching for the best prices for materials, determining the most affordable collection balance that is responsive to patron demand, and always on the look-out for grant opportunities to augment their capacity to obtain materials.

109. In light of the priority of materials acquisition and the current state of limited budgets for those materials, libraries would not reduce their materials budgets if reliance on CDL for certain digital content reduced their spending on the particular titles that were provided through CDL. On the contrary, the libraries would immediately find other ways to allocate those precious resources, through purchase of ebook licenses or print copies of other titles. With CDL in place in libraries throughout the United States, libraries would have additional flexibility in what they acquire from publishers, but would not spend any less money on publishers' products. This flexibility would provide for the increased expenditures for digital and print content, as libraries would recalibrate their spending patterns to continue to most effectively meet the needs of their patrons, without any net effect on their total expenditures on publishers' products.

Dated: February 25, 2022

DocuSigned by:

Susan H. Hildreth

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SUSAN H. HILDRETH

ATTACHMENT A**SUSAN H. HILDRETH****PROFESSIONAL EXPERIENCE****Library Consultant Variety of public sector clients 4/19 – current**

Focusing on executive recruitment, strategic planning, organizational review and broadband adoption. Recent projects include:

- Boise (ID) Public Library Strategic Plan, 2021 – 2023
- Placer County Library (CA) Organizational Assessment, 2021 – 2022
- Cooperative Personnel Services (CA) – Executive Recruitment and Organizational Analysis, 2020 -
- NTIA Merit Reviewer, Broadband USA Tribal Libraries Program, 2021
- Wisconsin Community Engagement/Leadership Training, 2020 – 2021
- Humboldt County Library (CA) Strategic Plan, 2020
- Tacoma Public Library (WA) Strategic Plan, 2020
- Feasibility Study to Establish Carpinteria Municipal Library (CA), 2020

Interim Director Sonoma County Library 7/18 – 3/19
Rohnert Park, CA

Served as interim director and primarily responsible for identifying a permanent director and managing library operations.

Distinguished University of Washington 8/16 – 6/18
Practitioner Information School
In Residence Seattle, WA

Inaugural appointee to this Gates-funded position (Professor of Practice) designed to infuse curriculum with skill building relevant to the 21st century library and bring theory and practice together for an impactful student experience.

- Taught courses in library management, community engagement and advocacy
- Served as guest lecturer in library management, community engagement and future of libraries – 2020-21

Treasurer American Library Association 6/16 – 6/19
Chicago, IL

Aspen Fellow Aspen Institute, Washington, DC 3/15 – 12/19
Communications/Society Program

Provided counsel on issues related to public libraries and represented the Institute's Dialogue on the Future of Public Libraries.

3/15 – 6/16

Responsible for the operation of the Peninsula Library System that supports the online library system for public libraries in San Mateo County, CA; the Pacific Library Partnership, a consortium of public libraries in the greater San Francisco Bay area; and the Califa Group, a non-profit organization that provides aggregated procurement services and other statewide programs for California libraries.

Director **Institute of Museum and Library Services** **1/11 – 1/15**

Responsible for the operation of the Institute, a federal agency that provides support for the nation's museums and libraries. Appointed by President Obama and confirmed unanimously by Senate.

- Administer a \$250 million annual budget, including \$150 million in population-based grants to states for libraries and \$100 million in competitive grants for museums and libraries. Work with library organizations, foundations and other interested stakeholders to develop partnerships to leverage federal investments.
- Advise Administration and Congress on information policy. Responsible for annual national data collection of public libraries and national census of museums.
- Work closely with Federal Communications Commission and National Telecommunications and Information Administration to ensure that broadband capacity and digital literacy is available for all with specific focus on underserved communities and populations
- Work closely with other federal agencies to leverage the capacity and potential of libraries and museums to strengthen communities.

City Librarian The Seattle Public Library 2/09 – 1/11

Responsible for the operation of The Seattle Public Library, including the world-famous Central Library (363,000 sf), 26 branches and Mobile Services, serving 600,000 people. Annual circulation is over 11.2 million from a collection of over 2.5 million items, with a staff of 565 FTE. Annual operating budget is \$50 million with an additional \$3 million in private funds.

- Report to the Library Board of Trustees, a five-member policy-making body appointed by the Mayor and confirmed by the City Council.
- Serve as Library's liaison and ex-officio board member of The Seattle Public Library Foundation and the Friends of The Seattle Public Library.
- Responsible for development of Library's strategic plan and management of a highly successful enterprise during a period of limited resources.

State Librarian California State Library 8/04 – 2/09

Responsible for the operation of the California State Library, including library services for the Executive Branch, the Legislature and all state employees. Collection is 2.7 million items, with a staff of 178 FTE. 2008/09 operating budget was \$75 million. Appointed by Governor Arnold Schwarzenegger July 2004 and confirmed by the State Senate April 2005.

- Responsible for annual distribution of over \$16 million in federal funding and \$59 million in state funding.
- Responsible for library service development activities for 181 public library systems serving over 37 million residents.
- Supervised a \$350 million public library construction bond program.
- Supervised a \$128 million cultural facilities bond program.

City Librarian San Francisco Public Library 3/01 – 6/04
Acting City Librarian San Francisco Public Library 2/00 – 3/01
Deputy City Librarian San Francisco Public Library 7/98 – 2/00

Responsible for the operation of the San Francisco Public Library, including the Main Library (376,000 sf), 26 branches and two bookmobiles, serving 800,000 people. Annual circulation was over 6 million from a collection of over 2 million items, with a staff of 650 FTE. 2003/04 operating budget was \$58 million. Began serving in the capacity of Acting City Librarian in May 1999, when the City Librarian suffered a massive stroke. Mayor Willie Brown made the official City Librarian appointment in March 2001.

- Reported to Library Commission, Library's policy-making body, and Mayor.
- Served as Library's liaison and ex-officio board member of the Friends and Foundation of the San Francisco Public Library.
- Developed successful \$106 million branch bond program renovating 19 branch libraries and building five new facilities.
- Responsible for execution of a post-occupancy evaluation of the Main Library and implementation of modifications to address key issues in the evaluation.
- Responsible for development of Library's strategic plan.

Planning Consultant California State Library 12/96 – 7/98

Responsible for assisting California public libraries in utilizing appropriate planning techniques to effectively develop, organize, administer and manage public library services. Analyzed current planning and management methodologies in public libraries, identified future trends, designed programs and training events to strengthen abilities of public library administrators to make informed decisions.

Deputy Library Director Sacramento Public Library 12/91 – 11/96

Responsible for fiscal, personnel and facilities services for the Sacramento Public Library, including the Central Library (165,000 sf), 23 branches and two bookmobiles, serving over one million people. Annual circulation was over four million from a collection of over two million items, with a staff of 200. 1995/96 operating budget was \$15 million.

- Reported to Library Director and was member of Management Team.
- Responsible for annual budget preparation and planning for additional funding.
- Served as member of team that planned and implemented the reorganization of the Library as a Joint Powers Authority of the City and County of Sacramento.

County Librarian Placer County Library, CA 5/89 – 12/91

Assistant County Librarian Placer County Library, CA 9/88 – 5/89

Responsible for daily operation of a county library system, including the Main Library in Auburn, ten branches and a bookmobile. Annual system circulation was over 500,000 from a collection of over 180,000 items, with a staff of 40. 1990/91 operating budget was \$1.5 million.

- Initiated development, with citizens committee, of first Long-Range Plan.
- Awarded \$1.5 million state construction funds for Granite Bay Branch, 1991.
- Planned major upgrade of automated system and expansion of Main Library.

Library Director Benicia Public Library, CA 10/84 – 9/88

Responsible for daily operation of a small, independent library. Annual circulation of 110,000, collection of 40,000 items, with a staff of 5.

- Established and worked closely with first Friends of the Library.
- Established state-funded adult literacy program in 1987.
- Established citizens' Library Building Committee to design new library.

Central Services Librarian Yolo County Library, CA 7/81 – 10/84

Responsible for the Central Services Program, including acquisitions, cataloging, processing, inter-library loan and branch services, supporting 7 branches with 6.5 FTE.

Davis Branch Librarian Yolo County Library, CA 2/80 – 7/81

Responsible for operation of busiest branch in the county system.

Branch Librarian Edison Township Library, NJ 7/73 – 12/78

Responsible for operation of a busy branch in a growing suburban community.

PUBLICATIONS SINCE 2012

Ask, Listen, Empower: Grounding Your Library Work in Community Engagement, ALA Publishing, 2021; Co-author with Erica Freudenberger, "Empowering Communities: From Public Trust to Impact" (Chapter 2); "Culture Shift: The Path to Becoming Community-Centered" (Chapter 8)

Co-creating MLIS Curriculum for Cultural Competence and Community- Driven Learning: Making Progress for the Future of Libraries, University of Washington Information School, 2018

Library Management Problems Today: Case Studies, Rowman & Littlefield, 2021;" A Failure to Communicate" (Chapter 18)

Library 2020: Today's Leading Visionaries Describe Tomorrow's Libraries, Scarecrow Press, 2013; "Community" (Chapter 15)

PROFESSIONAL ACTIVITIES/AWARDS

Please note that professional and community activities were limited during my tenure as a Presidential appointee 2011-2015.

Budget and Finance Committee, American Library Association. 2021-2022
 Syracuse University Library Advisory Board, Member, 2009-2011, 2015 - present
 Library of Congress Literacy Awards, Advisory Board Chair, 2012-2021
 Reach Out and Read California Advisory Board, 2021 - present
 Reach Out and Read National Board, 2015-2020
 Panorama Project Advisory Council, 2018-present
 University of Washington Information School, Library Advisory Board, Member, 2009-2011, 2016 – June 2018
 Library Council of Washington, Board Member, 2010-2011, 2016 – June 2018
 Corporation for Education Network Initiatives in California (CENIC) Board, Member, 2015-2017
 Freedom to Read Foundation, Board Member, 2009-2011
 Public Library Association (PLA) Endowment Committee, Chair, 2009-2010
 PLA Leadership Task Force, Member, 2006-2011
 PLA Vice-President, President, Past-President, 2006-2008
 ALA Councilor At-Large, ALA Council, 2002-2005
 PLA Board, Library Development Cluster, Member, 2000-2003
 CLA President, 2004, Treasurer, 1995-2000

California Library Association (CLA) Library Hall of Fame, 2019
 California Emerging Technology Fund Champion, 2014
 Association of Rural and Small Libraries Champion, 2014
 Distinguished Public Service Award, State University of New York, Albany, NY, 2012
 SF Municipal Fiscal Advisory Committee Public Managerial Excellence Award, 2000
 CLA First Annual Member of the Year, 1993
 Public Library Delegate to White House Conference on Libraries, 1991

EDUCATION

Master's in Business Administration , Rutgers University, Newark, NJ	December 1979
Master's in Library Science , State University of New York, Albany, NY	May 1973
Bachelor of Arts cum laude , Syracuse University, Syracuse, NY	June 1972

ATTACHMENT B

LIST OF INDIVIDUALS INTERVIEWED

Michael Blackwell, Director
ReadersFirst Leadership Group
St. Mary's County Library
23630 Hayden Farm Lane, Leonardtown, MD 20650

Nick Buron, Chief Librarian/Senior Vice President
Queens Public Library
89-11 Merrick Blvd., Jamaica, NY 11432

Shellie Cocking, Chief of Collections and Technical Services
San Francisco Public Library
100 Larkin St., San Francisco, CA 94102

Erica Freudenberger, Outreach and Marketing Consultant
Southern Adirondack Library System
22 Whitney Place, Saratoga Springs, NY 12866

Nate Hill, Executive Director
Metropolitan New York Library Council
599 11th Ave., New York, NY 10036

Paula MacKinnon, Executive Director
Califa Group, 330 Townsend St., #133, San Francisco, CA 94107

Mary Minow, Consultant, LibraryLaw.com
Board Member, Institute of Museum and Library Services
Chicago, IL

ATTACHMENT C

LIST OF MATERIALS CONSIDERED

NON-EVIDENTIARY DOCUMENTS

Stipulated Protective Order (ECF No. 39)

Discovery Hearing Transcript (Dec. 2, 2021)

DEPOSITION TRANSCRIPTS AND EXHIBITS

Dye, Skip

Gaudet, Michael

Lazarus, Alison

Marwell, Josh

Pavese, Alan

Potash, Steve

Restivo-Alessi, Chantal

Saletan, Rebecca

Sevier, Ben

Silverman, Adam

Weber, Jeff

EVIDENTIARY DOCUMENTS

HACHETTE0006560

HACHETTE0010650

PRH0052319

PRH0052321

PRH0052605

PRH0057091

PRH0057114

PRH0057123

PRH0057133

PRH0058900

PRH0065931

PRH0065933

PRH0065964

PRH0070813

PRH0070814

PRH0070815

PRH0070818

PRH0071726

WEBSITES, JOURNALS, AND NEWSPAPER ARTICLES

California State Library Statistics Portal, Circulation 2012-13 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=8d4d9320c8ce1ae36c764fd90dc05f83&live.

California State Library Statistics Portal, Circulation 2015-16 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

California State Library Statistics Portal, Circulation 2019-20 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=8d4d9320c8ce1ae36c764fd90dc05f83&live.

California State Library Statistics Portal, Library Visits per Capita, (2022),
<https://ca.countingopinions.com/pireports/report.php?4753b73dacc5b971763b4de81b0650f9&live>.

California State Library Statistics Portal, Circulation 2012-13 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=8d4d9320c8ce1ae36c764fd90dc05f83&live.

California State Library Statistics Portal, Circulation 2015-16 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

California State Library Statistics Portal, Summary Report, 2019-20, (2022),
<https://ca.countingopinions.com/pireports/report.php?bd779312f73ab509cdef26ddf21a92b6&live>.

California State Library Statistics Portal, Total Expenditures per Capita (2022),
<https://ca.countingopinions.com/pireports/report.php?bd779312f73ab509cdef26ddf21a92b6&live>.

California State Library, Collection 2010-11 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

California State Library, Collection 2016-16 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

California State Library, Collection 2019-20 (2022),
https://ca.countingopinions.com/pireports/view_dashboard.php?pkey=626437c4d376728d7b0313240656d821&live.

Controlled Digital Lending By Libraries, Position Statement on Controlled Digital Lending (Sept. 2018), <https://controleddigitalending.org/statement>

Deanne W. Swan et al., Institute of Museum and Library Services, Public Libraries in the United States Survey: Fiscal Year 2011 at 29 (June 2014),
<https://www.imls.gov/sites/default/files/legacy/assets/1/AssetManager/PLS2011.pdf>

Denver Public Library, Libraries and eBooks: An Introduction (Oct. 30, 2019),
<https://www.denverlibrary.org/blog/books-research/lauren/libraries-and-ebooks-introduction>.

Ex Libris, Implementing Controlled Digital Lending (CDL) Responsibly and Effectively: A Primer for Librarians,
https://page.exlibrisgroup.com/hubfs/HQ_General/Ex%20Libris%20Controlled%20Digital%20Lending%20White%20Paper.pdf?hsLang=en.

IFLA, Position on Controlled Digital Lending (June 2, 2021),
https://repository.ifla.org/bitstream/123456789/1835/1/ifla_position_-_en-_controlled_digital_lending.pdf.

Institute of Museum and Library Services, Public Libraries in the United States Survey: Fiscal Year 2011 at 16 (June 2014),
<https://www.imls.gov/sites/default/files/legacy/assets/1/AssetManager/PLS2011.pdf>.

Institute of Museum and Library Services, Public Libraries in the United States: Fiscal Year 2015 at viii (July 2018),
<https://www.imls.gov/sites/default/files/publications/documents/plsfy2015.pdf>.

Institute of Museum and Library Services, Public Libraries in the United States: Fiscal year 2017 at 12 (June 2020), <https://www.imls.gov/sites/default/files/publications/documents/publiclibrariesintheunitedstatesurveyfiscalyear2017volume1.pdf>.

Institute of Museum and Library Services, *Public Libraries Survey* “Table 25, Total collection expenditures of public libraries and percentage distribution of expenditures, by type of expenditure and state: Fiscal year 2011” https://www.imls.gov/sites/default/files/fy2011_pls_tables_20-30a.pdf. Institute of Museum and Library Services, Public Libraries Survey “FY 2019: Table 11. Total collection expenditures of public libraries and percentage distribution of expenditures, by type of expenditure and state: Fiscal year 2019” (2021), <https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey>.

Institute of Museum and Library Services, Public Libraries Survey “FY 2019: Table 26. Number of paid full-time-equivalent (FTE) staff in public libraries, by type of position; percentage of total FTE librarians and total FTE staff with ALA-MLS degrees; and number of public libraries with ALA-MLS librarians, by state: Fiscal year 2019” (2019), <https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey>.

Institute of Museum and Library Services, Public Libraries Survey “FY 2019: Table 8. Total per capita operating revenues of public libraries” (2021), <https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey>.

Institute of Museum and Library Services, The Use and Cost of Public Library Materials: Trends Before the COVID-19 Pandemic (Jan. 2021), https://www.imls.gov/sites/default/files/2021-02/pls_fy18.

Internet Archive, Borrowing Books Through Open Library (Sept. 13, 2021), <https://openlibrary.org/help/faq/borrow#how>.

Jeffrey Hess, KVPR, Kern County Libraries Face Uncertain 2017 (Dec. 20, 2016), <https://www.kvpr.org/education/2016-12-20/kern-county-libraries-face-uncertain-2017>.

Joan M. Reitz, ODLIS: Online Dictionary of Library and Information Science, Library, (2004), https://products.abc-clio.com/ODLIS/odlis_about.aspx.

Library Services Act, Pub. L. No. 84-597, 70 Stat. 293 (1956), <https://www.govinfo.gov/content/pkg/STATUTE-70/pdf/STATUTE-70-Pg293.pdf>.

Lisa M. Frehill et al., Institute of Museum and Library Services, Public Libraries Survey: Fiscal Year 2018 at 4 (Jan. 2021), https://www.imls.gov/sites/default/files/2021-02/fy2018_pls_tables.pdf.

Lisa Peet, Library Journal, Holding Pattern: Budgets and Funding (Feb. 16, 2018), <https://www.libraryjournal.com/story/holding-pattern-budgets-funding>.

Michael Kevane & William A. Sundstrom, The Development of Public Libraries in the United States, 1870–1930: A Quantitative Assessment. *Information & Culture: A Journal of History*, 117–144 (2014).

Michael Pelczar et al., Institute of Museum and Library Services, Characteristics of Public Libraries in the United States: Results from the FY 2019 Public Libraries Survey at 3 (Aug, 2021), <https://www.imls.gov/sites/default/files/2021-08/fy19-pls-results.pdf>.

Nami Sumida, San Francisco Chronicle, The Pandemic Transformed San Francisco’s Libraries. This Data Shows How (Dec. 5, 2021), <https://www.sfchronicle.com/sf/article/How-the-pandemic-transformed-San-Francisco-s-16667414.php>.

Nick Ripatrazone, Literary Hub, InterLibrary Loan Will change Your Life (Aug. 7, 2019), <https://lithub.com/interlibrary-loan-will-change-your-life/>.

Institute of Museum and Library Services, Public Libraries in the United States: Fiscal Year 2015 at viii (July 2018), <https://www.imls.gov/sites/default/files/publications/documents/plsfy2015.pdf>.

Rebekkah Smith Aldrich, Handbook for New Public Library Directors in New York State, 18–19 (2010), http://midhudson.org/directors_handbook.pdf.

Richard W. Boss, ALAIR, Materials Handling Systems for Libraries (Sept. 7, 2010), <https://alair.ala.org/bitstream/handle/11213/258/Materials%20Handling%20Systems.pdf?sequence=95>.